IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13070 of 2004

Between:

Smt. Chintamaneni Vanajakshi, W/o. Late Ch. Jagadesh,
33-13-1, Boyapati Vari Street, Seetharamapuram, Vijayawada-4.

..... PETITIONER

AND

1 The Arbitrator-cum-Cooperative Sub Registrar/

Sub-Divisional Cooperative Officer, Nuzvid, Krishna Dist.
2 Inquiry Officer-cum-Cooperative Sub Registrar/

Sub-Divisional Cooperative Officer, Gannavaram, Krishna Dist.
3 The Enikepadu Primary Agril, Coop Credit Society Ltd.,

Enikepadu, Unguturu Mandal, Krishna District ,
rep. by Secretary Shri P.A.N. Prasada Rao S/o. Raghava Rao.
4 Smt. Surapaneni Varalakshmi W/o. Late Surpaneni Vijayakumar,

Ex-Secretary, Elukapadu Primary Agricultural, Cooperative Credit

Society Limited, Unguturu, Unguturu Mandal, Krishna District.
5 Smt. Sivanagamani, W/o.Srinivasa Rao
Unguturu, Unguturu Mandal, Krishna Dist.
6 Smt. Gogineni Jamuna Rani W/o. Chandraiah Chowdary,

Engineers Blds, Ramavarapadu, Vijayawada, Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in passing award directing the petitioner to pay the claim amount along with interest pertaining to the amounts payable on account of misappropriation done by the Ex-secretary of the 3rd

respondent society solely basing on the award passed in Claim NO.1 of 2002-2003 dt. 11-9-2002 as arbitrary, illegal and without jurisdiction and contrary to the provisions of the A.P. Cooperative Societies Act, 1964 and consequently set aside the award dt. 31.5.2004 in Claim NO.3 of 2003 passed by the 1st respondent herein.

Counsel for the Petitioner:MR. C.Gunaranjan

Counsel for the Respondents 1 and 2: GP FOR COOPERATION

Counsel for the Respondent Nos.4 to 6: None appears

The Court made the following :

ORDER:

The petitioner at the relevant time was President of Enikepadu Primary Agricultural Cooperative Credit Society, Enikepadu (for short, the Society). Proceedings were initiated at the instance of the said Society under Section 51 of the A.P.Cooperative Societies Act, 1964 (for short, the Act) into the allegations of misappropriation of funds. The Cooperative Sub-Registrar, who conducted enquiry submitted a report fixing responsibility on one Sri Vijaya Kumar to an extent of Rs.1,34,831.25 ps. (Rupees one lakh thirty four thousand eight hundred and thirty one and twenty five paise only). The proceedings for surcharge were initiated. In the Award, the Arbitrator opined that the petitioner is liable in her personal capacity for the misappropriation. Ultimately, as directed by the Arbitrator proceedings were initiated under Section 62 of the Act against petitioner herein by Award dt.31.5.2004 in Claim No.3/03-04. First respondent directed the petitioner to pay the said amount with interest at 18% per annum. Assailing the same, present Writ Petition is filed.

Learned counsel for the petitioner, Sri C.Gunaranjan, raised various contentions. This Court, however, is not inclined to deal with these questions, especially when the first respondent and the Enquiry Officer under Section 51 of the Act came to the conclusion that petitioner herein is vicariously responsible for the loss caused to Enikepadu Primary Agricultural Cooperative Credit Society. If the petitioner is so advised, nothing prevents her to approach the A.P. Cooperative Tribunal under Section 76 of the Act. The petitioner contends that as the time granted for filing appeal expired, and respondents are pressurizing the petitioner to pay the amount of Award, she approached this Court. If that be so, it is open to petitioner to approach the Tribunal by way of miscellaneous application as well and obtaine appropriate orders on furnishing security under Rule 12 of the A.P.Cooperative Tribunal (Procedure) Rules, 1994. In this Writ Petition, no relief can be granted as any recording of opinion on merits would prejudice the interest of petitioner.

With the above observations, the Writ Petition is dismissed. No costs.

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27.7.2004 (V.V.S.RAO, J)

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Arbitrator-cum-Cooperative Sub Registrar/

Sub-Divisional Cooperative Officer, Nuzvid, Krishna Dist.
2 Inquiry Officer-cum-Cooperative Sub Registrar/

Sub-Divisional Cooperative Officer, Gannavaram, Krishna Dist.
3 The Enikepadu Primary Agril, Coop Credit Society Ltd.,

Enikepadu, Unguturu Mandal, Krishna District.

4 2 CCs to GP for Cooperation, High Court Bldgs., Hyderabad

5 2 CD copies.